

H. B. asks the Appeals Board of the Utah Labor Commission to review Administrative Law Judge George's denial of Howard B.'s claim for benefits under the Utah Workers' Compensation Act ("the Act"; Title 34A, Chapter 2, Utah Code Annotated).

The Appeals Board exercises jurisdiction over this motion for review pursuant to Utah Code Ann. §63-46b-12 and Utah Code Ann. §34A-2-801(3).

### **BACKGROUND AND ISSUES PRESENTED**

In his motion for review, Mr. B. argues that Judge George erred in finding that Reed Jesse Construction was not liable for Mr. B.'s workers' compensation claim. However, before considering the issue raised in Howard B.'s motion for review, the Appeals Board must first determine whether the motion for review was filed within the 30-day time limit imposed by the Utah Administrative Procedures Act ("UAPA"; Title 63, Chapter 46b, Utah Code Ann.).

### **FINDINGS OF FACT**

Judge George issued his decision in this matter on July 15, 2005. That same day, a copy of the decision was mailed to Howard B. and his counsel of record at their correct mailing addresses. On August 19, 2005, the Appeals Board received Howard B.'s motion for review.

### **DISCUSSION AND CONCLUSIONS OF LAW**

Section 63-46b-12 of UAPA allows a party dissatisfied with an ALJ's decision 30 days in which to file a motion for review with the Appeals Board. A motion for review is not "filed" until it is actually received by the Appeals Board.

In this case, Judge George's decision was issued on July 15, 2005, but Howard B.'s motion for review was not received until 35 days later, on August 19, 2005. Consequently, Howard B. failed to file his motion for review within the 30-day period allowed by law.

### **ORDER**

The Appeals Board dismisses Howard B.'s motion for review as untimely. The prior decision of the ALJ remains in effect. It is so ordered.

Dated this 8<sup>th</sup> day of December, 2005.

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Colleen S. Colton, Chair

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Patricia S. Drawe

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Joseph E. Hatch